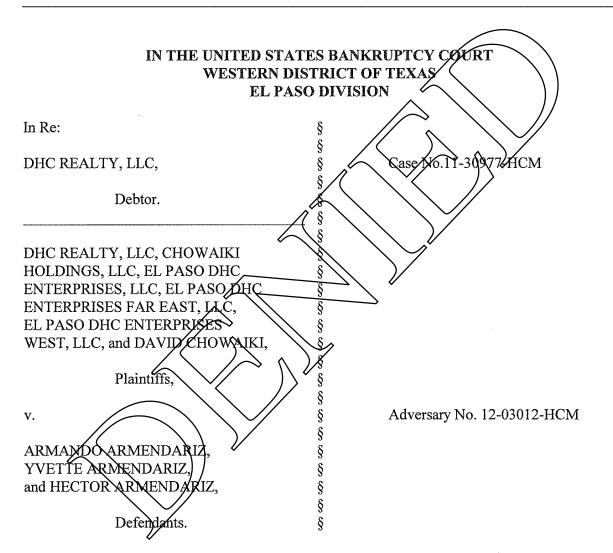


# IT IS HEREBY ADJUDGED and DECREED that the below described is DENIED.

Dated: February 13, 2013

JOHN C. AKARD
UNITED STATES BANKRUPTCY JUDGE



ORDER REGARDING PLAINTIFFS' MOTION TO COMPEL AND FOR SANCTIONS AGAINST YVETTE ARMENDARIZ

On this date came on to be heard Plaintiffs' Motion to Compel and for Sanctions Against

Yvette Armendariz (hereinafter the "Motion"). The Court finds that written discovery was served on Defendant Yvette Armendariz in the time and manner prescribed by the Federal Rules of Civil Procedure. The Court further finds that Defendant Yvette Armendariz has made invalid objections, has given evasive and false answers, and has not fully and properly answered Plaintiffs' Interrogatories or Requests for Production of Documents.

Accordingly, the Court finds that Plaintiffs' Motion To Compel and for Sanctions Against Yvette Armendariz should be granted. The Court further finds that Defendant Yvette Armendariz's invalid objections, evasive and false answers, and failure to fully and properly answer Plaintiffs' Interrogatories and Requests for Production was without substantial justification, that no other circumstances exist which would make an award of expenses to Plaintiffs unjust, and accordingly the Court finds that Plaintiffs are entitled to recover \$2,500.00 as reasonable attorney's fees and expenses incurred in obtaining this order. It is therefore

ORDERED, ADJUDGED AND DECREED that Plaintiffs' Motion To Compel and for Sanctions Against Yvette Armendariz is hereby sustained or denied with regard to Plaintiffs' discovery sought from Defendant Yvette Armendariz as set forth hereinbelow:

# INTERROGATORIES INTERROGATORIES

If you contend that Plaintiffs' claims are barred in whole or in part by fraud, please set forth all of the facts and evidence that you intend to use to support that defense, identify all documents (by title, date, author, custodian and a summarization of contents) that you intend to use to support that defense, and identify all persons who have knowledge of facts supporting that defense.

SUSTAINED DENIED \_\_\_\_\_

Defendant Yvette Amendariz MUST/NEED NOT supplement his answer this Interrogatory.

#### **INTERROGATORY NO. 4:**

If you contend that Plaintiffs' claims are barred in whole or in part by the doctrine of unc	clean
hands, please set forth all of the facts and evidence that you intend to use to support that def	ense,
identify all documents (by title, date, author, custodian and a summarization of contents) that	t you
intend to use to support that defense, and identify all persons who have knowledge of	facts
supporting that defense.	

SUSTAINED	DENIED
Defendant Yvette Armendariz M	UST/NEED NOT supplement his answer this Interrogatory.
INTERROGATORY NO. 5:	
all of the facts and evidence that yo title, date, author, custodian and a	fs' claims are barred in whole or in part by laches, please set forth ou intend to use to support that defense identify all documents (by summarization of contents) that you intend to use to support that who have knowledge of facts supporting that defense.
SUSTAINED	DENIED
Defendant Yvette Armendariz M	UST/NEED NOT supplement his answer this interrogatory.
INTERROGATORY NO. 6:	
please set forth all of the facts and all documents (by title, date, author	ifs' claims are barred in whole or it part by the doctrine of waiver, devidence that you intend to use to support that defense, identify or eustodian and a summarization of contents) that you intend to dentify all persons who have knowledge of facts supporting that
SUSTAINED	DENIED
	UST/NEED NOT supplement his answer this Interrogatory.
INTERROGATORY NO. 7:	
equitable estopped, please set forth defense, identify all documents (b	tiffs' claims are barred in whole or in part by the doctrine of a all of the facts and evidence that you intend to use to support that by title, date, author, custodian and a summarization of contents) and defense, and identify all persons who have knowledge of facts
SUSTAINED	DENIED
Defendant Yvette Armendariz M	UST/NEED NOT supplement his answer this Interrogatory.

#### **INTERROGATORY NO. 8:**

If you contend that Plaintiffs' claims are barred in whole or in part because of an accord an
satisfaction, please set forth all of the facts and evidence that you intend to use to support the
defense, identify all documents (by title, date, author, custodian and a summarization of contents
that you intend to use to support that defense, and identify all persons who have knowledge of fact
supporting that defense.

SUSTAINED	DENIED
Defendant Yvette Armendariz MUST/NEED NOT	supplement his answer this Interrogatory.
INTERROGATORY NO. 9:	
If you contend that Plaintiffs' claims are be consideration, please set forth all of the facts and defense, identify all documents (by title, date, auth that you intend to use to support that defense, and is supporting that defense.	or, custodian and a summarization of contents)
SUSTAINED	DENTED
Defendant Yvette Armendariz MUST/NEED NOT	
REQUESTS FOR	PRODUCTION
GENERAL INSTRUCTION	
Unless otherwise specified, each request is through the present.	limited to the time period from January 1, 2006
SUSTAINED	DENIED
REQUEST FOR PRODUCTION NO. 1.	
All documents relating to any savings bank in your name, individually or jointly, or in connect books are current or may have been cancelled.	books, records, accounts and memoranda held ion with any other person or entity, whether the
SUSTAINED	DENIED
Yvette Armendariz MUST/NEED NOT supplement response to the above Request in order to address l	nent her response and produce documents in Plaintiffs' issues raised relative thereto.

#### REQUEST FOR PRODUCTION NO. 2:

All documents relating to any checking accounts held in your name, individually or in connection with any other person or entity, including checkbooks, checkbook stubs, statements, cancelled checks and deposit slips, whether the accounts are current or have been closed.
SUSTAINED DENIED
Yvette Armendariz MUST/NEED NOT supplement her response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.
REQUEST FOR PRODUCTION NO. 3:
All documents relating to any stock certificates, bonds, or other securities in your name, individually or jointly, or in connection with any other person or entity, or which may be held in the account of Yvette Armendariz, individually, or in conjunction with any other person or entity in any corporation.
SUSTAINED DENIED
Yvette Armendariz MUST/NEED NOT supplement her response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.
REQUEST FOR PRODUCTION NO. 4:
All documents relating to any stock brokerage accounts in your name, individually or jointly, or in connection with any other person or entity including but not limited to, books, records, accounts, monthly statements, statements of transactions and all other papers and memoranda thereof;
SUSTAINED DENIED
Yvette Armendariz MUSTNEED NOT supplement her response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.
REQUEST FOR PRODUCTION NO. 5:
All federal and state income tax returns filed by you for the previous four (4) years (2008, 2009, 2010, and 2011) together with any schedules and worksheets related thereto as well as all other papers and memoranda referring to any adjustment made in connection therewith. jointly.
SUSTAINED DENIED
Yvette Armendariz MUST/NEED NOT supplement her response and produce documents in

response to the above Request in order to address Plaintiffs' issues raised relative thereto.

All documents relating to deeds or conveyances of real property in your name, individually

## REQUEST FOR PRODUCTION NO. 6:

or jointly, or in connection with any other person or eare the legal beneficiary or equitable owner or have	*· · · · · · · · · · · · · · · · · · ·
SUSTAINED	DENIED
Yvette Armendariz MUST/NEED NOT supplement response to the above Request in order to address Pl	
REQUEST FOR PRODUCTION NO. 7:	
All documents relating to monies received a sources, including but not limited to, accounts reconstructed bonuses, automobile sales, real property leases, or respects.	and being presently received by you from all ceivable, wages, earnings, draws, dividends, eimbursed expenses, for the preceding four (4)
SUSTAINED	DENIED
Yvette Armendariz MUST/NEED NOT suppleme response to the above Request in order to address Pl	ent her response and produce documents in laintiffs' issues raised relative thereto.
REQUEST FOR PRODUCTION NO. 8:	
All documents relating to policies of insuranc including but not limited to life, liability, accident h payments for premiums therefor.	the covering you or your personal or real property nome, and automobile, and all records showing
SUSTAINED	DENIED
Yvette Armendariz MUST/NEED NOT supplement response to the above Request in order to address Pl	ent her response and produce documents in laintiffs' issues raised relative thereto.
REQUEST FOR PRODUCTION NO 9:	
All documents relating to your memberships organizations or associations, including private or p	in and contributions to any charity or any other rofessional clubs or associations.
SUSTAINED	DENIED
Yvette Armendariz MUST/NEED NOT supplement response to the above Request in order to address Plantage and the supplement of the supplement	ent her response and produce documents in laintiffs' issues raised relative thereto.

All documents relating to any business entity in which you have an interest, individually or

jointly, or in conjunction or partnership with any other individual or entity, including, but not limited

#### **REQUEST FOR PRODUCTION NO. 10:**

to, books, records, general ledgers, general journals, of sales journals, petty cash records, bank statements, an	
SUSTAINED	DENIED
Yvette Armendariz MUST/NEED NOT supplement response to the above Request in order to address Plantage 1.	
REQUEST FOR PRODUCTION NO. 11:	
All records for any corporation which you, in indirectly if the corporation records are under your ac	
SUSTAINED	DENIED
Yvette Armendariz MUST/NEED NOT supplement	t her response and produce documents in
response to the above Request in order to address Plan	intiffs' issues raised relative thereto.
REQUEST FOR PRODUCTION NO. 12:	
All documents relating to the title of any assets	held by you, individually or jointly, whether
presently owned by you, individually or jointly, or pr	reviously transferred by or to you within the
preceding four (4) years.	$\searrow$
	<b>\</b>
SUSTAINED	DÈNIEĎ
Yvette Armendariz MUST/VEED NOT supplement response to the above Request in order to address Plane REQUEST FOR PRODUCTION NO. 13:	t her response and produce documents in intiffs' issues raised relative thereto.
ALL CLOT FOR THOSE CARDITION IN	
All documents relating to bills and/or purchased by you and records concerning acquisition	
SUSTAINED	DENIED
Yvette Armendariz MUST/NEED NOT supplement	t her response and produce documents in
response to the above Request in order to address Pla	intiffs' issues raised relative thereto.

## **REQUEST FOR PRODUCTION NO. 14:**

All documents relating to bills and/or purchas owned by you which you claims to be exempt proper same.	
SUSTAINED	DENIED
Yvette Armendariz MUST/NEED NOT supplement response to the above Request in order to address Plantage 1.	nt her response and produce documents in aintiffs' issues raised relative thereto.
REQUEST FOR PRODUCTION NO. 15:	
All documents relating to any location in which but not limited to, real estate purchase contracts, esecurity deposits, mortgages, mortgage balance sheet documentation relating thereto.	deeds, lease agreements, rental agreements,
SUSTAINED	DENIED
Yvette Armendariz MUST/NEED NOT supplement response to the above Request in order to address Plantage 1	nt her response and produce documents in the response and the response
REQUEST FOR PRODUCTION NO. 16:	
All documents relating to any financial state individual or institution for the preceding five (5) y memoranda and other papers regarding same.	ements prepared or submitted by you to any ears together with all schedules, worksheets
SUSTAINED	DENIED
Yvette Armendariz MUST/NEER NOT supplement response to the above Request in order to address Plantage	nt her response and produce documents in intiffs' issues raised relative thereto.
REQUEST FOR PRODUCTION NO. 17:	
All documents relating to debts owed to you including but not limited to promissory notes, IOU n	at any time within the preceding (5) years, notes and/or accounts receivable.
SUSTAINED	DENIED
Yvette Armendariz MUST/NEED NOT supplement response to the above Request in order to address Pla	

## **REQUEST FOR PRODUCTION NO. 18:**

All documents memorializing any contracts or financial transactions by and between you and any current or past employees of the Fuddruckers restaurants in El Paso, including, but not limited to, any promissory notes, ledgers, receipts, correspondence.
SUSTAINED DENIED
Yvette Armendariz MUST/NEED NOT supplement her response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.
REQUEST FOR PRODUCTION NO. 19:
All monthly credit card statements for all credit cards used by you since January 1, 2008.
SUSTAINED DENIED
Yvette Armendariz MUST/NEED NOT supplement her response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.
REQUEST FOR PRODUCTION NO. 20:
All monthly phone bills for you, your household, and for anyone living at your household since January 1, 2009.
SUSTAINED DENIED
Yvette Armendariz MUST/NEED NOT supplement her response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.
REQUEST FOR PRODUCTION NO. 24:
All documents related to the catering business of the Fuddruckers restaurants in El Paso, Texas.
SUSTAINED
Yvette Armendariz MUST/NEED NOT supplement her response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

# REQUEST FOR PRODUCTION NO. 22:

Department of Public Safety, Texas Department	itted by you since January 1, 2008 to the Texas nt of Transportation, the Texas State Comptroller, or a license or to qualify generally to do business in the
SUSTAINED	DENIED
Yvette Armendariz MUST/NEED NOT supresponse to the above Request in order to add	oplement her response and produce documents in ress Plaintiffs' issues raised relative thereto.
REQUEST FOR PRODUCTION NO. 23:	
All documents relating to your purchase	se or sale of any automobile since January 1, 2008.
SUSTAINED	DENIED
Yvette Armendariz MUST/NEED NOT supresponse to the above Request in order to addr	oplement her response and produce documents in ress Plaintiffs' issues raised relative thereto.
REQUEST FOR PRODUCTION NO. 24:	
All quarterly sales tax reports submitted your sales of automobiles, trucks, or boats in the sales of automobiles.	he state of Texas since January 1, 2008.
SUSTAINED	DENIED
Yvette Armendariz MUST/NEED NOT supresponse to the above Request in order to addr	plement her response and produce documents in ress Plaintiffs' issues raised relative thereto.
REQUEST FOR PRODUCTION NO. 25:	$\searrow$
If you have provided financing to anyofrom you since January 1, 2008, produce all de	ne who has purchased an automobile, truck, or boat ocuments memorializing these credit transactions.
SUSTAINED	DENIED
Yvette Armendariz MUST NEED NOT sup response to the above Request in order to addr	plement her response and produce documents in ress Plaintiffs' issues raised relative thereto.
<b>\</b>	

## **REQUEST FOR PRODUCTION NO. 26:**

	ntions sent by you or received by you from
or with any suppliers, vendors, employees, ex-en	
business of Fuddruckers restaurants in El Paso, T	Texas, since January 1, 2008.
SUSTAINED	DENIED
Yvette Armendariz MUST/NEED NOT supplement response to the above Request in order to address Plantage	
REQUEST FOR PRODUCTION NO. 27:	
All documents in your possession, custody employee files or personnel who have worked for	or control related to employee files or ex- Fuddruckers restaurants in El Paso, Texas.
SUSTAINED	DENIED
REQUEST FOR PRODUCTION NO. 28:	
All records related to charitable contributi El Paso's materials, food, or other items of ya employed by Chowaiki Holdings, LLC and/or its i Texas.	ions made by you utilizing Fuddruckers of flue during the time that you have been related Fuddruckers restaurants in El Paso,
SUSTAINED	DENTED
Yvette Armendariz MUST/NEED NOT supplement response to the above Request in order to address Plantage and the supplement of the supplement	her response and produce documents in aintiffs' issues raised relative thereto.
REQUEST FOR PRODUCTION NO. 29:	
All records of food purchases made by yo	u since January 1, 2009.
SUSTAINED	DENIED
Yvette Armendariz MUST/NEED NOT supplement response to the above Request in order to address Plantage 1. The supplementary of the suppl	nt her response and produce documents in aintiffs' issues raised relative thereto.
Yvette Armendariz MUST/NEED NOT supplement response to the above Request in order to address Plane REQUEST FOR PRODUCTION NO. 29:  All records of food purchases made by your SUSTAINED  Yvette Armendariz MUST/NEED NOT supplement	nt her response and produce documents in aintiffs' issues raised relative thereto.  The sum of the

## **REQUEST FOR PRODUCTION NO. 30:**

Any records related to the vending machines located in the Fuddruckers restaurants in El Paso, Texas.
SUSTAINED DENIED
Yvette Armendariz MUST/NEED NOT supplement her response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.
REQUEST FOR PRODUCTION NO. 31:
All documents memorializing any cash payments received by you, rebates received by you, gifts received by you, or any items of value received by you or anyone in your household provided by customers or by vendors/suppliers with a relationship to the Fuddruckers restaurants in El Paso, Texas. This would necessarily include suppliers, vendors, employees, ex-employees, relatives, friends, military personnel, or anyone else who has provided anything of value to you because of your relationship with Chowaiki Holdings, LLC and/or the Fuddruckers restaurants in El Paso, Texas.
SUSTAINED DENIED
Yvette Armendariz MUST/NEED NOT supplement her response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.
REQUEST FOR PRODUCTION NO. 32:
All documents related to any <u>purchases by you</u> on behalf of Fuddruckers restaurants in El Paso, Texas since January 1, 2008.
SUSTAINED DENIED
Yvette Armendariz MUST/NEED NOT supplement her response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.
Defendant Yvette Armendaniz is FURTHER ORDERED to deliver to Corey W. Haugland,
Plaintiffs' artorney of record, at the offices of James & Haugland, P.C., 609 Montana Avenue, El
Paso, Texas 79902 on or before 5:00 p.m. on, 20, supplemental
answers to the Interrogatories identified hereinabove wherein the Court has sustained Plaintiffs'
arguments; and,

Defendant Yvette Armendariz is FURTHER ORDERED to deliver to Corey W. Haugland. Plaintiffs' attorney of record, at the offices of James & Haugland, P.C., 609 Montana Avenue, El Paso, Texas 79902 on or before 5:00 p.m. on \_\_\_\_\_\_\_, 20\_\_\_, copies of all documents responsive to the Requests for Production identified hereinabove wherein the Court has sustained Plaintiffs' arguments; and, IT IS FURTHER ORDERED AND ADJUDGED that Plaintiffs shall recover from Defendant Yvette Armendariz, \$2,500.00 for reasonable attorney's fees and expenses which shall be delivered to Corey W. Haugland, Plaintiffs' attorney of record, at the offices of James & Haugland, P.C., 609 Montana Avenue, El Paso, Texas 79902 of or before 300 p.m. on \_, 20\_\_. Said sanctions are awarded as court costs, and shall be duly noted by the Clerk of this Court. All relief not granted herein is hereby denied ¥## Submitted by: Corey W. Haugland State Bar No. 09234200 JAMES & HAUGLAND, P.C. 609 Montana Avenue El Paso, Texas 79902 Phone: 915-532-3911 FAX: (915) 541-6440 Attorney for Plaintiffs

#### 12-03012-hcm Doc#63 Filed 02/16/13 Entered 02/17/13 00:05:51 Imaged Certificate of

Notice Pg 14 of 15
United States Bankruptcy Court Western District of Texas

DHC Realty, LLC, Plaintiff

Adv. Proc. No. 12-03012-hcm

Armendariz, Defendant

CERTIFICATE OF NOTICE

District/off: 0542-3 User: vogest Page 1 of 2 Date Rcvd: Feb 14, 2013

Form ID: pdfintp Total Noticed: 3

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Feb 16, 2013.

301 Williams, El Paso, TX 79901-1813 +Chowaiki Holdings, LLC, pla 301 Williams, El Paso, TX 79901-1813 pla +David Chowaiki,

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center. E-mail/Text: USTPRegion07.sn.bnc@usdoj.gov Feb 15 2013 00:07:38 United States Trustee - EP12,

U.S. Trustee's Office, 615 E. Houston, Suite 533, P.O. Box 1539,

San Antonio, TX 78295-1539

TOTAL: 1

\*\*\*\*\* BYPASSED RECIPIENTS (undeliverable, \* duplicate) \*\*\*\*\*
+Chowaiki Holdings, LLC, 301 Williams, El Paso, TX 79901-1813

cd\* +Chowaiki Holdings, LLC,

cd\* +David Chowaiki, 301 Williams, El Paso, TX 79901-1813

TOTALS: 0, \* 2, ## 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Feb 16, 2013 Signature: Joseph Spections

# 12-03012-hcm Doc#63 Filed 02/16/13 Entered 02/17/13 00:05:51 Imaged Certificate of Notice Pg 15 of 15

District/off: 0542-3 User: vogest Page 2 of 2 Date Rcvd: Feb 14, 2013 Form ID: pdfintp Total Noticed: 3

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on February 14, 2013 at the address(es) listed below:

Christopher Robert Johnston on behalf of Defendant Armando Armendariz cjohnston@f-jlaw.com,

mwoods@f-jlaw.com

Corey W. Haugland on behalf of Counter Defendant Chowaiki Holdings, LLC chaugland@jghpc.com on behalf of Counter Claimant Armando Armendariz usbc@sidneydiamond.com